

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

George A. Kurtz

(b) County of Residence of First Listed Plaintiff Lehigh  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Richard J. Orloski  
The Orloski Law Firm, 111 N. Cedar Crest Blvd. Allentown, PA 18104  
610-433-2363

**DEFENDANTS**

Superior Coffee Services, LLC

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 626 Withdrawal 28 USC 157	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability			<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud			<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending			<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage			<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability				<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice				<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 890 Other Statutory Actions	
					<input type="checkbox"/> 891 Agricultural Acts	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 896 Arbitration	
					<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	
					<input type="checkbox"/> 950 Constitutionality of State Statutes	

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:  
Auto accident.**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

George A. Kurtz

v.

CIVIL ACTION

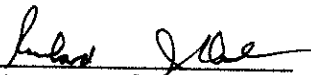
Superior Coffee Services, LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

<u>Oct 26, 2017</u> <b>Date</b>	 <b>Attorney-at-law</b>	<u>Richard S. Orloski</u> <b>Attorney for Plaintiff</b>
<u>(610) 433-2363</u> <b>Telephone</b>	<u>(610) 433-4785</u> <b>FAX Number</b>	<u>orloski.law@gmail.com</u> <b>E-Mail Address</b>

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 935 N. 32nd St., Allentown, Pa 18104

Address of Defendant: 1177 Lakewood Farmingdale Rd., Howell, NJ 07731

Place of Accident, Incident or Transaction: Paper Mill Road, at or near Skenton Avenue, Erdenheim, Montgomery County, Pennsylvania.  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) \_\_\_\_\_
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, \_\_\_\_\_, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
  - ☐ Relief other than monetary damages is sought
- NO — Arbitration — Case

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/26/17

Attorney-at-Law

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**GEORGE A. KURTZ**

**Plaintiff**

**vs.**

**SUPERIOR COFFEE SERVICES, LLC**

**Defendant**

:  
:  
:  
:  
:  
:  
:

**NO.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

1. Plaintiff, George A. Kurtz, is an adult individual residing at 935 N. 32<sup>nd</sup> Street, Allentown, Lehigh County, Pennsylvania 18104.
2. Defendant, Superior Coffee Services, LLC (hereinafter “Defendant Superior Coffee”) is a limited liability company organized under the laws of the state of New Jersey with its principal place of business located at 1177 Lakewood Farmingdale Road, Howell, New Jersey 07731.

**JURISDICTION AND VENUE**

3. This Honorable Court has jurisdiction over this matter pursuant to its diversity jurisdiction, codified at 28 U.S.C. §1332, because the parties are citizens of different states, and the amount in controversy exceeds \$75,000.00.
4. Venue is proper in this jurisdiction pursuant to 28 U.S.C. §1391(a)(2) in that this is a judicial district in which a substantial part of the events or omissions giving rise to the claims asserted in this Complaint occurred in this judicial district.

**COUNT ONE – NEGLIGENCE**  
**(PLAINTIFF GEORGE A. KURTZ V.**  
**DEFENDANT SUPERIOR COFFEE SERVICES, LLC)**

5. The allegations of paragraphs 1 through 4 inclusive are incorporated herein as if fully set forth at length.

6. At all relevant times, Defendant was acting through its employee, Ulpiano Antone Ortiz, Jr., whom it employed as a truck driver, and whom was acting in the course and scope of his employment on February 21, 2017.

7. At all relevant times, Ulpiano Antone Ortiz, Jr., was an agent, servant, workman and/or employee of Defendant, Superior Coffee, acting within the course and scope of his employment and in furtherance of Defendant, Superior Coffee's, business interests.

8. On February 21, 2017, at approximately 10:20 a.m., Plaintiff, George A. Kurtz, owned and operated a 1999 Ford Ranger and was traveling westbound in the left turn only lane on Paper Mill Road, at or near its intersection with Stenton Avenue, in Erdenheim, Montgomery County, Pennsylvania 19038, and was stopped in traffic.

9. On February 21, 2017, at approximately 10:20 a.m., Defendant, Superior Coffee, allowed its driver, Ulpiano Antone Ortiz, Jr., to operate its 2016 Ford Econoline E250 being owned by Defendant Superior Coffee and was traveling westbound in the left turn only lane on Paper Mill Road, at or near its intersection with Stenton Avenue, in Erdenheim, Montgomery County, Pennsylvania 19038.

10. On February 21, 2017, at approximately 10:20 a.m., Defendant, Superior Coffee, negligently and carelessly allowed the operator of its vehicle in such a way that he was unable to stop and violently drove his vehicle into the rear portion of the vehicle being driven by Plaintiff,

George A. Kurtz, thereby causing serious and permanent injuries and damages to Plaintiff, George A. Kurtz.

11. At all material times hereto, Plaintiff, George A. Kurtz, was a full-tort insured.

12. On the aforementioned date and at the aforesaid time and place, Defendant, Superior Coffee, was negligent and careless in the following respects:

- (a) by operating his vehicle at an excessive rate of speed;
- (b) by operating his vehicle at a speed in excess of the speed limit;
- (c) by failing to pay attention to traffic in front of him;
- (d) by failing to keep a proper lookout;
- (e) by failing to keep his vehicle under control while driving;
- (f) by failing to stop his vehicle so as to avoid striking Plaintiff's vehicle on the road directly in front of him;
- (g) by not obeying the rules of the road as codified in the Pennsylvania Motor Vehicle Code; and
- (h) negligence per se.

13. As a direct and consequential result of the negligent and/or careless conduct of Defendant, described above, Plaintiff, George A. Kurtz, sustained bodily injuries including his back, neck, bilateral shoulders, hip, right elbow and body including, but not limited to, myalgia, cervical region spinal enthesopathy, cervical sprain and strain, cervicalgia, bilateral shoulder pain, lumbar sprain, lumbar region spinal enthesopathy, thoracic region spinal enthesopathy, left hip strain and contusion of right elbow, for which damages are claimed.

14. As a proximate result of Defendant's negligence, Plaintiff, George A. Kurtz, may in the future be compelled to expend sums of money in the procurement of medicines, medical

attention, and other treatment not covered by insurance rendered necessary by reason of aforesaid injuries, to his detriment and loss, financial and otherwise.

15. As a direct and proximate result of Defendant's negligence, Plaintiff, George A. Kurtz, has suffered physical and mental pain, anguish, anxiety, distress, discomfort and inconvenience, for which damages are claimed.

16. As a direct and proximate result of Defendant's negligence, Plaintiff, George A. Kurtz, has lost income, revenues, wages and other compensation.

17. Plaintiff George A. Kurtz's injuries are permanent and do, and will, prevent Plaintiff, George A. Kurtz, from enjoying life's pleasures, associations and companionships.

18. The damages suffered by Plaintiff, George A. Kurtz, are permanent.

WHEREFORE, Plaintiff, George A. Kurtz, demands that judgment be entered in his favor and against Defendant, Superior Coffee Services, LLC, in an amount in excess of Seventy Five Thousand (\$75,000.00) Dollars, plus all costs and other relief this court deems necessary.

**COUNT II – NEGLIGENT ENTRUSTMENT**  
**GEORGE A. KURTZ V. SUPERIOR COFFEE SERVICES, LLC**

19. The allegations of paragraphs 1 through 18 inclusive are incorporated herein as if fully set forth at length.

20. The aforesaid accident was caused by the negligence, carelessness and recklessness of Defendant, Superior Coffee, in that it, *inter alia*, did:

a) commit the acts of negligence, carelessness and recklessness committed by its agent, servant, workman and/or employee, Ulpiano Antone Ortiz, Jr.;

b) fail to properly inspect, care for, clean, repair and maintain its vehicle in such a condition as to adequately safeguard the rights, safety and position of Plaintiff, George A. Kurtz, and others similarly situated;



c) entrust its vehicle to Ulpiano Antone Ortiz, Jr., when it knew or should have known that he had a propensity to act in a negligent or reckless manner;

d) direct, order and/or permit Ulpiano Antone Ortiz, Jr., to operate its vehicle when it knew, or should have known, that he intended to or was likely to use the vehicle to conduct himself as a driver in such a manner as to create an unreasonable risk of harm to others in violation of the Restatement (Second) of Torts Section 308;

e) direct, order and/or permit Ulpiano Antone Ortiz, Jr., to operate its vehicle when it knew, or should have known, that he was not properly trained and certified to operate the vehicle in a safe and prudent manner;

f) fail to provide sufficient and proper instruction, education and training to Ulpiano Antone Ortiz, Jr., that was necessary for him to operate the vehicle in a safe and prudent manner;

g) direct, order or permit Ulpiano Antone Ortiz, Jr., to operate the vehicle without him or another employee or independent contractor retained by Defendant, Superior Coffee, first performing proper safety inspection, maintenance and repairs, when it knew, or should have known, that said proper safety inspections, maintenance and repairs were not performed;

h) direct, order or permit Ulpiano Antone Ortiz, Jr., to operate the vehicle when he was distracted and when it knew, or should have known, that he was distracted and that his distraction rendered him incapable of operating the vehicle in a safe and prudent manner;

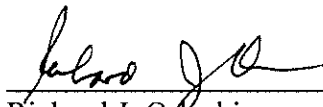
i) fail to hire, employ and/or promote various agents, servants, workmen and/or employees with the responsibility and obligation to properly inspect, maintain, service and/or repair said vehicle and to properly train operators; and



j) fail to comply with its own policies, procedures and programs which were designed to ensure that vehicles being operated by its employees were properly inspected, maintained, serviced and/or repaired to ensure that its operators and employees charged with inspecting, maintaining, servicing and/or repairing said vehicles were properly trained, competent, capable of or actually performing the requirements of their employment, to ensure that its operators and employees charged with inspecting, maintaining, servicing and/or repairing said vehicles were complying with Defendant's policies, procedures, guidelines and standards of care and safety, and to ensure that it, and its employees were complying with all state statutes and regulations.

WHEREFORE, Plaintiff, George A. Kurtz, demands that judgment be entered in his favor and against Defendant, Superior Coffee Services, LLC, in an amount in excess of Seventy Five Thousand (\$75,000.00) Dollars, plus all costs and other relief this court deems necessary.

***THE ORLOSKI LAW FIRM***



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